

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. H-04/08-148
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 Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Health Access Eligibility Unit terminating her eligibility for Medicaid until she meets a "spenddown" amount of \$2,851. The issue is whether the Department correctly determined the petitioner's income. The following facts are not in dispute.

FINDINGS OF FACT

1. The petitioner was receiving Medicaid in 2007 based on her receipt of SSI (Supplemental Security Income) based on her disability. Under Medicaid eligibility rules, individuals who receive SSI are allowed "separate household" status, and are automatically eligible for Medicaid. Individuals who do not receive SSI are subject to "household income" rules, and their financial eligibility is determined based on the income of all household members.

2. The petitioner's husband is employed. In October 2007 the petitioner's SSI was terminated due to her husband's

earnings. Due to Department error, this information was not acted upon promptly, and the petitioner continued to receive Medicaid.

3. In March 2008, during a routine periodic review of the petitioner's eligibility, the Department discovered that the petitioner was no longer receiving SSI. Based on the petitioner's husband's reported income, the Department determined that the petitioner would be subject to a six-month spenddown amount of \$2,902 for the six-month period beginning May 1, 2008 before she could be financially eligible for Medicaid. Based on further review, this amount was amended to \$2,851.

4. At the initial hearing in this matter (held on May 8, 2008) the petitioner did not dispute that she no longer receives SSI, and that the Department had correctly determined the household's income in March 2008. The petitioner alleged, however, that her husband's earned income had decreased and that he had high deductibles and premiums on his employer-based insurance. The Department agreed to reassess the petitioner's spenddown for Medicaid and determine whether the petitioner might be eligible for VHAP.

5. At a phone conference held on June 5, 2008 the Department reported that the petitioner had been found

eligible for VHAP and that her Medicaid spenddown had been reduced to \$95 effective May 1, 2008 based on subsequent information the petitioner had provided regarding her husband's income and her medical expenses. The matter was continued to allow the petitioner to submit a bill for orthopedic shoes to apply toward her spenddown.

6. The petitioner was not available at the next scheduled status conference on July 10, 2008. The hearing officer directed the Department to file a written summary of the status of the case and left a phone message for the petitioner that she could respond in writing when the Department did so.

7. The Department filed its written summary on July 30, 2008. The petitioner filed a written response on August 6, 2008. From the parties' submissions it is clear that the Department has credited nearly all the petitioner's claimed medical expenses toward her spenddown. The petitioner does not dispute that a bill for orthopedic shoes was incurred prior to May 1, 2008. It appears the petitioner is still in the process of submitting other medical expenses toward her spenddown.

ORDER

The Department's decision is affirmed.

REASONS

As noted above, there is no dispute that the Department as of March 2008 correctly determined both the sources and amounts of the petitioner's household income. Under Medicaid rules, for households that do not include a member receiving SSI, the earned and unearned income of all household members is considered in determining financial eligibility for Medicaid. See W.A.M. § M340 *et seq.* If any dispute develops regarding medical expenses that can be applied to her spenddown, the petitioner is free to request a hearing. However, inasmuch as the Department's decisions in March and April 2008 regarding the petitioner's eligibility for Medicaid for the six-month period commencing May 1, 2008 accurately reflect the petitioner's circumstances and are in accord with the pertinent regulations, those decisions must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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